

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION**

CLINT LONG, INDIVIDUALLY, AND N/F OF C.L. §
§

Plaintiff,

V.

**JAYTON-GIRARD INDEPENDENT §
SCHOOL DISTRICT, AND JOHNNY §
TUB, IN HIS OFFICIAL CAPACITY AS §
SUPERINTENDENT OF JAYTON- §
GIRARD INDEPENDENT SCHOOL §
DISTRICT, AND LYLE LACKEY §**

Defendants.

No. 5:21-cv-111

DEFENDANTS' JOINT NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1441, and 28 U.S.C. § 1446, Defendants Jayton-Girard Independent School District (the “District” or “JGISD”), Johnny Tub (“Tub”), in his official capacity as the District Superintendent, and Lyle Lackey (“Lackey”) (collectively “Defendants”) hereby remove to this Court the state court action described herein and respectfully show the Court as follows:

1. **State Action:** This action was initially filed in the 39th District Court of Kent County, Texas, on May 6, 2021, Cause No. 1820. Plaintiff is Clint Long, Individually, and N/F of C.L. (“Plaintiff”). Defendants are JGISD; its former superintendent, Johnny Tubs; and a campus principal, Lyle Lackey. Defendants have not been served with process, but JGISD independently received a copy of the filing of the petition and application for a temporary restraining order on or about May 10, 2021.

2. **Grounds for Removal:** This removal is based on claims arising under federal law. Plaintiff's claims include an alleged violation of the Fourteenth Amendment of the U.S.

Constitution related to JGISD's mask requirement based on Texas Education Agency guidance. This Court has original jurisdiction of any civil action arising under the laws of the United States. 28 U.S.C. § 1331. Therefore, this civil action raises a federal question for which this Court has original jurisdiction and may be removed to this Court by Defendants pursuant to the provisions of 28 U.S.C. § 1441(a). This Court has jurisdiction over Plaintiff's entire action pursuant to 28 U.S.C. § 1441(2)(c). Further, this matter is removed to the U.S. District Court for the Northern District of Texas, Lubbock Division, because this Court is the Court for the district and division embracing the place where such action is pending, i.e., Kent County, Texas.

3. **Consent:** All Defendants named in the suit have consented to this removal.

4. **Compliance with Deadline:** Defendants, although not formally served with process, received a copy of Plaintiff's petition and application for temporary restraining order on or about May 10, 2021. Formal service is not generally required before a defendant may file a notice of removal. *See Novak v. Bank of N.Y. Mellon Tr. Co., NA.*, 783 F.3d 910, 914 (1st Cir. 2015). Defendants are filing this notice of removal within the 30-day time period required by 28 U.S.C. § 1446(b). Therefore, this removal is timely. Defendants will promptly file a copy of this notice of removal with the clerk of the state court in which the action is pending.

5. **State Court Pleadings:** Although Defendants have not been served any process, pleadings, or orders as described in 28 U.S.C. § 1446(a), a true and correct copy of all pleadings known to Defendants are attached to this notice.

ACCORDINGLY, Defendants Jayton-Girard Independent School District, Johnny Tub, in his official capacity as the District Superintendent, and Lyle Lackey hereby remove this action to the United States District Court for the Northern District of Texas, Lubbock Division, pursuant to § 1441(a) and § 1446 of Title 28 of the United States Code.

Respectfully submitted,

/s/Brad R. Timms

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CAPACITY AS THE DISTRICT
SUPERINTENDENT, AND LYLE LACKEY

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Notice of Removal was served on Plaintiffs, through their attorney of record, pursuant to the Federal Rules of Civil Procedure on this 11th day of May, 2021.

/s/ Brad R. Timms

Brad R. Timms